

Amendment No. 923

Assembly Amendment to Senate Joint Resolution No. 3 First Reprint (BDR C-260)

**Proposed by:** Assembly Committee on Elections, Procedures, Ethics, and Constitutional Amendments

**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold** is newly added transitory language.

KMG



Date: 5/21/2007

S.J.R. No. 3—Proposes to amend the Nevada Constitution to revise provisions relating to signature requirements for initiative petitions.  
(BDR C-260)



SENATE JOINT RESOLUTION NO. 3—SENATORS  
RHOADS, AMODEI AND MCGINNESS

FEBRUARY 20, 2007

Referred to Committee on Legislative Operations and Elections

SUMMARY—Proposes to amend the Nevada Constitution to revise **certain** provisions relating to ~~signature requirements for initiative petitions,~~ **elections.** (BDR C-260)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution to **provide that a person must be a resident of the State for 30 days before an election to be eligible to vote in that election,** to require that an initiative petition be proposed by a number of registered voters ~~[equal to a certain percentage of the population of the State, or]~~ equal to a certain percentage of registered voters who voted in the last preceding election ~~[, who reside in each county of the State in the same proportion as the population of the county bears to the total population of the State,]~~ **and to remove requirements concerning affidavits that must be affixed to referendum petitions and initiative petitions.**

**Legislative Counsel's Digest:**

Existing law provides that a citizen of the United States who is at least 18 years of age and who has actually, as opposed to constructively, resided in the State for at least 6 months and in the district or county for at least 30 days before an election is eligible to vote. (Nev. Const. Art. 2, § 1)

The United States Supreme Court, in several decisions, has ruled that residency requirements which exceed the amount of time required to complete election administrative procedures do not further any compelling state interest and violate the equal protection clause of the Fourteenth Amendment of the U.S. Constitution. (Dunn v. Blumstein, 92 S. Ct. 995 (1972); Marston v. Lewis, 93 S. Ct. 1211 (1973); Burns v. Fortson, 93 S. Ct. 1209 (1973))

This resolution proposes to amend the Nevada Constitution to eliminate the 6-month state residency requirement. A person will be eligible to vote after residing for 30 days in a district or county in this State.

Existing law requires that an initiative petition be signed by at least 10 percent of the voters who voted at the last preceding general election in at least 75 percent of the counties in the State. (Nev. Const. Art. 19, § 2)

The United States District Court for the District of Nevada declared that the above portion of Section 2 of Article 19 of the Nevada Constitution violates the Equal Protection Clause of the United States Constitution because it applies the same formula to counties of varying population. Such application results in the signatures of voters from small, rural counties carrying more weight than the signatures of voters from larger counties. (*Committee to Regulate and Control Marijuana v. Heller*, No. CV-S-04-01035 (D. Nev. Aug. 20, 2004)) The United States Court of Appeals for the Ninth Circuit affirmed the decision of the United States District Court. (*American Civil Liberties Union of Nevada v. Lomax*, 471 F.3d 1010 (9th Cir. Nev. 2006))

This resolution proposes to amend the Nevada Constitution to remove those provisions which were found unconstitutional and replace them with a requirement that an initiative petition must be signed by a number of registered voters that equals ~~at least 4 percent of the total population of the State, as determined by the last preceding decennial census, or,~~ at least 10 percent of the total number of voters who voted at the last preceding general election, ~~whichever number is less. The signatures must be gathered from registered voters who reside in each county in the State in the same proportion as the population of the county bears to the total population of the State.]~~

Existing law currently provides that there must be attached to each document in a referendum petition or initiative petition an affidavit stating that all the signatures on the document are genuine signatures of persons who are registered voters in the counties in which they reside, and that the affidavit must be executed before a person authorized by law to administer oaths in Nevada, such as a notary public. (Nev. Const. Art. 19, § 3) The Nevada Supreme Court has ruled that the affidavit requirements set forth in Section 3 of Article 19 of the Nevada Constitution are an impermissible burden on political speech and, therefore, unconstitutional under the First Amendment to the United States Constitution. (*Secretary of State v. Give Nevada a Raise, Inc.*, 120 Nev. 481 (2004))

This resolution proposes to amend the Nevada Constitution to remove the affidavit requirements set forth in Section 3 of Article 19.

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY,  
That **Section 1 of Article 2 of the Nevada Constitution be amended to read as follows:**

Section 1. All citizens of the United States (not laboring under the disabilities named in this constitution) of the age of eighteen years and upwards, who shall have actually, and not constructively, resided in the state ~~six months,~~ and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now or hereafter may be elected by the people, and upon all questions submitted to the electors at such election; provided, that no person who has been or may be convicted of treason or felony in any state or territory of the United States, unless restored to civil rights, and no person who has been adjudicated mentally incompetent, unless restored to legal capacity, shall be entitled to the privilege of an elector. There shall be no denial of the elective franchise at any election on account of sex. The legislature may provide by law the conditions under which a citizen of the United States who does not have the status of an elector in another state and who does not meet the residence requirements of this section may vote in this state for President and Vice President of the United States.

**And be it further**

**RESOLVED, That** Section 2 of Article 19 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. Notwithstanding the provisions of Section 1 of Article 4 of this Constitution, but subject to the limitations of Section 6 of this

Article, the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this Constitution, and to enact or reject them at the polls.

2. An initiative petition shall be in the form required by Section 3 of this Article and shall be proposed by a **total** number of registered voters equal to **at least** 10 percent ~~for more~~ of the number of voters who voted at the last preceding general election ~~in not less than 75 percent of the counties~~ in for at least 4 percent of the total population of the State. ~~but the total number of registered voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted in the entire State at the last preceding general election.~~ ~~as determined by the last preceding national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c), whichever total number of registered voters is less. The number of registered voters who propose the initiative petition must reside in each county of the State in the same proportion as the population of the applicable county bears to the total population of the State.~~

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than January 1 of the year preceding the year in which a regular session of the Legislature is held. After its circulation, it shall be filed with the Secretary of State not less than 30 days prior to any regular session of the Legislature. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall transmit such petition to the Legislature as soon as the Legislature convenes and organizes. The petition shall take precedence over all other measures except appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the Legislature without change or amendment within 40 days. If the proposed statute or amendment to a statute is enacted by the Legislature and approved by the Governor in the same manner as other statutes are enacted, such statute or amendment to a statute shall become law, but shall be subject to referendum petition as provided in Section 1 of this Article. If the statute or amendment to a statute is rejected by the Legislature, or if no action is taken thereon within 40 days, the Secretary of State shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. If a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and take effect upon completion of the canvass of votes by the Supreme Court. An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the Legislature within 3 years from the date it takes effect. If a majority of such voters votes disapproval of such statute or amendment to a statute, no further action shall be taken on such petition. If the Legislature rejects such proposed statute or amendment, the Governor may recommend to the Legislature and the Legislature may propose a different measure on the same subject, in which event, after such different measure has been

1 approved by the Governor, the question of approval or disapproval of each  
2 measure shall be submitted by the Secretary of State to a vote of the voters  
3 at the next succeeding general election. If the conflicting provisions  
4 submitted to the voters are both approved by a majority of the voters voting  
5 on such measures, the measure which receives the largest number of  
6 affirmative votes shall thereupon become law. If at the session of the  
7 Legislature to which an initiative petition proposing an amendment to a  
8 statute is presented which the Legislature rejects or upon which it takes no  
9 action, the Legislature amends the statute which the petition proposes to  
10 amend in a respect which does not conflict in substance with the proposed  
11 amendment, the Secretary of State in submitting the statute to the voters for  
12 approval or disapproval of the proposed amendment shall include the  
13 amendment made by the Legislature.

14 4. If the initiative petition proposes an amendment to the Constitution,  
15 the person who intends to circulate it shall file a copy with the Secretary of  
16 State before beginning circulation and not earlier than September 1 of the  
17 year before the year in which the election is to be held. After its circulation  
18 it shall be filed with the Secretary of State not less than 90 days before any  
19 regular general election at which the question of approval or disapproval of  
20 such amendment may be voted upon by the voters of the entire State. The  
21 circulation of the petition shall cease on the day the petition is filed with the  
22 Secretary of State or such other date as may be prescribed for the  
23 verification of the number of signatures affixed to the petition, whichever is  
24 earliest. The Secretary of State shall cause to be published in a newspaper  
25 of general circulation, on three separate occasions, in each county in the  
26 State, together with any explanatory matter which shall be placed upon the  
27 ballot, the entire text of the proposed amendment. If a majority of the voters  
28 voting on such question at such election votes disapproval of such  
29 amendment, no further action shall be taken on the petition. If a majority of  
30 such voters votes approval of such amendment, the Secretary of State shall  
31 publish and resubmit the question of approval or disapproval to a vote of  
32 the voters at the next succeeding general election in the same manner as  
33 such question was originally submitted. If a majority of such voters votes  
34 disapproval of such amendment, no further action shall be taken on such  
35 petition. If a majority of such voters votes approval of such amendment, it  
36 shall, unless precluded by subsection 5 or 6, become a part of this  
37 Constitution upon completion of the canvass of votes by the Supreme  
38 Court.

39 5. If two or more measures which affect the same section of a statute  
40 or of the Constitution are finally approved pursuant to this Section, or an  
41 amendment to the Constitution is finally so approved and an amendment  
42 proposed by the Legislature is ratified which affect the same section, by the  
43 voters at the same election:

44 (a) If all can be given effect without contradiction in substance, each  
45 shall be given effect.

46 (b) If one or more contradict in substance the other or others, the  
47 measure which received the largest favorable vote, and any other approved  
48 measure compatible with it, shall be given effect. If the one or more  
49 measures that contradict in substance the other or others receive the same  
50 number of favorable votes, none of the measures that contradict another  
51 shall be given effect.

6. If, at the same election as the first approval of a constitutional amendment pursuant to this Section, another amendment is finally approved pursuant to this Section, or an amendment proposed by the Legislature is ratified, which affects the same section of the Constitution but is compatible with the amendment given first approval, the Secretary of State shall publish and resubmit at the next general election the amendment given first approval as a further amendment to the section as amended by the amendment given final approval or ratified. If the amendment finally approved or ratified contradicts in substance the amendment given first approval, the Secretary of State shall not submit the amendment given first approval to the voters again.

**And be it further**

**RESOLVED, That Section 3 of Article 19 of the Nevada Constitution be amended to read as follows:**

Sec. 3. 1. Each referendum petition and initiative petition shall include the full text of the measure proposed. Each signer shall affix thereto his or her signature, residence address and the name of the county in which he or she is a registered voter. The petition may consist of more than one document. ~~[ but each document shall have affixed thereto an affidavit made by one of the signers of such document to the effect that all of the signatures are genuine and that each individual who signed such document was at the time of signing a registered voter in the county of his or her residence. The affidavit shall be executed before a person authorized by law to administer oaths in the State of Nevada. The enacting clause of all statutes or amendments proposed by initiative petition shall be: "The People of the State of Nevada do enact as follows:"]~~

2. The Legislature may authorize the Secretary of State and the other public officers to use generally accepted statistical procedures in conducting a preliminary verification of the number of signatures submitted in connection with a referendum petition or an initiative petition, and for this purpose to require petitions to be filed no more than 65 days earlier than is otherwise required by this Article.

**And be it further**

**RESOLVED, That the provisions of Assembly Joint Resolution No. 10 of the 73rd Session of the Nevada Legislature are hereby repealed.**

**And be it further**

**RESOLVED, That the provisions of Senate Joint Resolution No. 1 of the 74th Session of the Nevada Legislature are hereby repealed.**